Labor News & Views

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A Quiz With A Purpose

In past issues of Labor News and Views, we've talked a lot about the Federal Labor Management Statute. In the labor relations business, we lovingly refer to this as "the Statute." The Statute governs the employer, union and employee relationship.

We think it would a good idea to step you through the basics of the Statute. It's going to take quite a few issues (ten in all), but we'll get through it.

We'll talk about basic employer, union and employee rights under the Statute. We'll talk about what makes up a bargaining unit, formal discussions, management unfair labor practices, and even union unfair labor practices.

Reading these upcoming quizzes will not make you an expert by any stretch of the imagination. However, we hope it'll give you enough information that you will know when you've got a situation that you should discuss with your Human Resources Advisor.

Inside This Issue

QUIZ TIME

An employee under your supervision approaches you during a campaign by two unions to gain the right to represent all eligible employees at your Command. The employee wants to talk to you because he is aware that you have had considerable experience with unions at your last job.

The employee asks for your opinion. Should he join a union and which union he should vote for? What's your response?

a. I would remain neutral
b. I let him know my preference and the reasons why I feel this way, then it's up to him to decide.
c. I wouldn't express my views because they're pretty negative. However, if I felt more positive, I'd tell him to join.

As a section head in a large division, you've found out that some of the other section heads are distributing overtime as a reward to employees. You see this practice as both inefficient and bad for morale. A union steward, who is aware of your feelings, asks you to join a union committee set up to draft an overtime distribution proposal for the upcoming contract negotiations.

(Cont. on page 2)

QUIZ (CONT FROM PAGE 1)

How would you respond to this request?

a. I'd volunteer, so long as it did not create a conflict of interest with my day to day supervisory responsibilities.
b. No way, I can't volunteer. However, I would tell the steward that I would be willing to provide technical advice in order to eliminate a bad management practice.
c. I'd thank him for considering me, but refuse to serve on the committee.

See "Basic Employee Rights," Page 3

Got Ideas? You can contact us at nwlabor_nw@nw.hroc.navy.mil. We would enjoy hearing your ideas for our newsletter.

LABOR RELATIONS IN THE FEDERAL GOVERNMENT

In 1835 (yes, this is the right date!) employees of the Department of the Navy began banding together to collectively express their concerns about their working conditions. Navy Yard workers in Philadelphia and Washington D.C. went on strike to demand a shorter workday (a "10-hour" workday instead of "from sun up to sundown") and a means of presenting grievances to management. These were predominately craft employees who at that time had no right protected by either law or regulation to engage in such collective bargaining.

In 1859, molders at the Philadelphia Navy Yard became members of the Molders and Foundry Workers Local #1.

In 1887, patternmakers at Philadelphia became charter members of the Pattermakers League.

In 1888, the International Association of Machinists chartered local lodges at Brooklyn, Washington D.C., and Norfolk Navy Yards.

And soon thereafter federal employees in the other defense departments and the Post Office began similar organizing efforts.

Presidents' Teddy Roosevelt and Taft, concerned over the rising strength of the labor movement issued "gag rules." These rules prohibited federal employee unions, prohibited federal employees from petitioning Congress directly concerning their pay, benefits and working conditions, and threatened dismissal of employees who violated the rules.

In defiance, employees continued to organize and gain support in Congress resulting in the passage of the Lloyd-LaFollette Act of 1912. Among other things, this Act removed the effects of the gag rules and granted federal employees the right to organize.

In 1917, as a result of a close working relationship which had developed between then Assistant Secretary of the Navy, Franklin D. Roosevelt, and the Metal Trades Department, unions at the Navy yards were given the right to intervene on behalf of employees on employment matters other than wages.

In that same year, the first federal union to cut across trade, craft and organizational lines, the National Federation of Federal Employees (NFFE) was founded. The American Federation of Government Employees (AFGE) grew out of NFFE to become one of the largest federal employee unions, and represents the largest number of Navy employees.

In 1962, President Kennedy issued an Executive Order which granted recognition to federal unions. At that time only about 1% of the federal workforce was organized. That strength grew significantly however during the next seventeen years.

By 1979, when Congress passed the Civil Service Reform Act, over 60% of the federal workforce were represented by labor unions. The Reform Act for the first time granted, by law, formal recognition of federal unions. Statistics in 1999 reflect that 60% of the federal workforce remain represented by over 2,000 units.[1]

In Section 7101 of the Act, Congress found that, "labor organizations and collective bargaining in the civil service are in the public interest." Whether or not we as individual managers and supervisors agree with our elected representatives on this issue, we do have an obligation to comply with the law. We also have an obligation to seek the most efficient means to accomplish our work. Consider establishing a cooperative working relationship with your labor organization to work toward mutual resolution of joint problems as the best means of accomplishing your Command's objectives.

BASIC EMPLOYEE RIGHTS

This is a series of quiz articles covering basic entitlements under the Federal Labor Management Relations Statute (5 USC 71). This article is 1 of 10.

The Statute states that an employee has the right to:

a) Form, join, or assist a labor organization;
b) Act as a representative of a labor organization; and
c) Bargain collectively through a labor organization.

Within the context of the Statute, a supervisor or management official is not an "employee." Under the Statute, a supervisor or management official may not participate in the management of a union, act as a union representative, or attempt to influence employees in the exercise of their rights. This can sometimes place you with a tough decision when your employee is asking for your opinion. It's hard to tell them that you are unable to respond to their questions. But that is exactly what you have to do. To do otherwise would violate the Statute and is an unfair labor practice.

Let's talk about our quiz. First the campaign scenario. It's tempting to answer "b," but that's the wrong answer. Look at what the Statute said supervisors and management officials cannot do: "attempt to influence." You cannot give your opinion because it will be seen as an attempt to influence. For the same reason, answer "c" is incorrect. You can't respond just because you feel positive (or negative) because once again we get into the "attempt to influence" problem.

You have an obligation to remain neutral when questions of this nature arise. Because of your role as a supervisor or management official, taking a position on this issue may be looked upon as attempting to "coerce" an employee in exercise of rights protected by 5 USC Chapter 71. This applies to all bargaining unit employees, whether or not they are under your direct supervision. The correct answer is "a".

What does the Statute say?

On to our next scenario, the one about the bargaining committee

Don't even tell me that you answered with either "a" or "b." If you did, just take a moment to smack yourself upside the head! But seriously … we go back to the Statute to see if this would be a problem. It becomes a problem because you may not, as a supervisor, participate in the management of a union.

[1] Source: "Union Recognition in the Federal Government," As of January 1999, OPM Publication

Participation in the management of a labor organization by a supervisor is prohibited. This prohibition flows from the premise that participation is inherently in conflict with supervisory responsibilities. Participation on a union committee, or even providing advice to it, would be viewed as falling within the bounds of this prohibition.

So, be professional and courteous because the correct answer, therefore, is "c."

Next issue's quiz*: "Definition of a Supervisor."*

APPEALS

There are several formal avenues of appeal available to employees to seek redress of adverse actions taken against them by their employer. Among the procedures are:

GRIEVANCE. If the employee is part of a bargaining unit represented by a union, the collective bargaining agreement contains a negotiated grievance procedure which may, at the employee's option, be utilized to appeal an adverse action.

ARBITRATION. If the union (not the employee) is dissatisfied with the management decision rendered on an employee's grievance, it may elect to submit the matter to binding arbitration.

E.E.O. COMPLAINT. If the employee alleges that the adverse action taken was merely a pretext for prohibited discrimination (i.e., race, religion, gender, etc) the employee may elect to file through the E.E.O. complaint process.

M.S.P.B. APPEAL. Employees may appeal actions such as removals, demotions, and suspensions of greater than 14 days to the Merit Systems Protection Board (MSPB).

U.L.P. COMPLAINT. If the employee or the union alleges that management committed an unfair labor practice when it took an adverse action against an employee, either may submit the matter to the Federal Labor Relations Authority for adjudication.

WHISTLEBLOWER. If the employee alleges that the adverse action taken was reprisal for "whistle blowing," the matter can be referred to the Office of Special Counsel and eventually to the Merit Systems Protection Board for adjudication.

USERRA APPEAL. If an employee alleges discrimination in federal employment on account of prior military service the may elect to file an appeal to MSPB.

VEOA APPEAL. Employees may claim that a federal agency violated a preference eligible's right under any statute or regulation relating to the veterans' preference to MSPB.

OTHER HELPFUL RESOURCES
Past Issues of Labor News and Views www.donhr.navy.mil/HRSC/NewsItem.asp?ItemID=67&ItemArea=5
General Human Resources information: http://www.donhr.navy.mil/Employees/cpp.asp
Training information: www.donhr.navy.mil/Employees/training.asp

Training Opportunity for Northwest Supervisors: Labor Relations for Supervisors

What: This course is designed to provide supervisors and managers an overview of labor relations in the federal sector. Upon completion you will have a basic concept of what labor relations means; the rights of management, employees and union; union representation; what's an unfair labor practice; administering the collective bargaining agreement; and the basics of the grievance procedures and arbitration. **Cost:** Free. **When:** April 2-4, 2002, 0800 – 1600 hours. **Who** Managers and supervisors with bargaining units. **Where:** Jackson Park, Bremerton Washington. **How:** To register contact your training coordinator or go to http://www.donhr.navy.mil/Employees/training-